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CrI.O.P.No.12060 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.12060 of 2023

Mogandass @ Sakthivel

... Petitioner

Vs.

State rep. by
The Inspector of Police
Ranipet-All Women Police Station (AWPS),
Ranipet District.
Crime No.06 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.06 of 2023 pending
investigation on the file of the respondent herein.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr. C.E.Pratap
Government Advocate (CrI. Side)

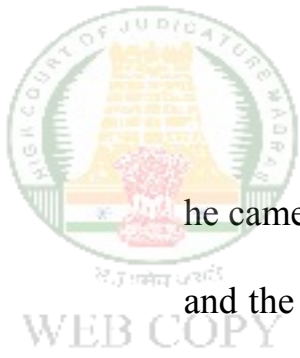
ORDER

The petitioner, who was arrested and remanded to judicial custody
on 15.04.2023, for the offences punishable under Sections 5(I), 5(j)(ii), 6, 7
& 8 of POCSO Act, 2012 in Crime No.06 of 2023 on the file of the
respondent police, seeks bail.



2. The case of the prosecution is that the petitioner and the victim girl are well acquainted and became friends. On 14.07.2022, the accused had come to the house of the victim girl and they had physical relationship. Thereafter, whenever nobody was in the house of the victim, the accused used to come to her house and had physical relationship with her. Due to which, she became pregnant and when she had informed it to her parents the panchayatars had summoned the accused and when they had enquired him, he had denied the relationship and had stated that he is not responsible for the pregnancy. Further the petitioner had stated that she had relationship with one Ashok. Based on the complaint, a case in Crime No.6 of 2023 came to be registered for the offence under Sections 5(I), 5(j)(ii), 6, 7 & 8 of POCSO Act, 2012.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person. He would further submit that the petitioner and the defacto complainant were having acquaintance with each other for a long time. On the invitation of the defacto complainant, the petitioner had gone to the house of the defacto complainant. The petitioner without understanding the consequences of POCSO Act, on the invitation of the defacto complainant, the petitioner had sexual intercourse with her. Later,



he came to know that the victim was also having relationship with one Ashok and the same is also admitted in the FIR. Later the petitioner came to know that the said Ashok is responsible for the pregnancy of the victim. Whereas the parents of the victim had falsely averred that the petitioner is responsible for the pregnancy and when he denied he has been falsely implicated in this case. He further submitted that the petitioner has been in judicial custody from 15.04.2023 and the major part of investigation is also over. He further submitted that the petitioner is not responsible for the pregnancy and he has also filed an affidavit of undertaking stating that if in the event the DNA proves the paternity of the petitioner, he is ready and willing to marry the victim girl. He also submitted that the victim has also attained majority now. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioner stating that the petitioner had committed penetrative sexual assault on the victim. He further submitted that the statement of the victim girl has also been recorded under Section 164 Cr.P.C., wherein she has admitted that the relationship between them was consensual in nature and the petitioner is the responsible for her pregnancy.



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5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR and the statement of the victim girl recorded under Section 164 Cr.P.C., and the affidavit of undertaking filed by the petitioner.

6. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Special Court for Exclusive Trial of Cases under POCSO Act, Vellore**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



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[b] the petitioner shall stay at Chennai and report before the Inspector of Police, North Beach Police Station, every day at 10.30 a.m., until further orders ;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

06.06.2023

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To

1. The Sessions Court for Exclusive Trial of Cases under POCSO Act, Vellore.
2. The Inspector of Police
Ranipet-All Women Police Station (AWPS),
Ranipet District.
3. The Jailer,
Central Prison, Vellore.



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A.D.JAGADISH CHANDIRA,J.,

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4. The Public Prosecutor,
High Court of Madras.

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